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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,402	07/10/2002	Blake Bookstaff	60557.000003	7448

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EXAMINER

DEANE JR, WILLIAM J

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 02/12/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,402

Applicant(s)

BOOKSTAFF, BLAKE

Examiner

William J Deane

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-16, 22-32, 34-46, 48-59, 61-71, 78-88, 93-100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5-16</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 16, 22 – 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,850,007 (Marino et al.).

With respect to claims 1 – 16, see Col. 1, lines 39 – 58, Col. 3, lines 8 – 15, Col. 4, lines 21 – 43 and Col. 4, line 67 – Col. 5, line 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 – 32, 34 - 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Marino et al. in view of U.S. Patent No. 6,400,804 (Bilder).

With respect to claims 26, 41, 52, 57, 78 and 79 Marino et al. teach the claimed device except for the unavailability aspect of the instant application and the prompting caller. However, Bilder teaches the unavailability (busy, on-hold aspect) of the instant application and the prompting aspect (a menu), see Abstract. It would have been obvious to one of ordinary skill to have incorporated such aspects, i.e., the unavailability

aspect and prompting aspect as taught by Bilder into the Marino et al. device and method as another way of providing advertising to a customer.

With respect to claims 27 – 32, note the 102 rejection above.

With respect to claims 34 – 37 and 39, note the 102 rejection above.

With respect to claim 38 and 53, note the 102 rejection above and Abstract.

With respect to claims 42 – 46, 48 – 51, 55 note the 102 rejection above.

With respect to claims 54 and 56, this is how directory assistance works.

With respect to claims 58 – 71, note the 102 rejection above along with the rejection of claims 26, 41, 52 and 57.

With respect to claims 80 – 88, note the rejections above.

With respect to claims 94 – 100, note the rejections above.

With respect to claims 25 and 40, having the system work with a number that is non-existent rather than unavailable would have been obvious to one of ordinary skill in the art as such would only entail a small programming change. This would be analogous to when a business moves and changes its number that particular number no longer exists but calls are forward to the new number.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


U.S. Patent No. 6,614,896 (Rao) – note Abstract; and

U.S. Patent No. 5,448,625 (Lederman) – note Abstract.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

09Feb04


WILLIAM J. DEANE, JR.
PRIMARY EXAMINER